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October 24, 2018

BY ECF

Honorable Carol Bagley Amon
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 12101

Re: *Peter Martin v. City of New York, et al., 18-cv-3241 (SBA) (SJB)*

Dear Judge Amon:

We are counsel to plaintiff Peter Martin in the above matter, and write in response to the October 15, 2018 pre-motion letter from Matthew W. McQueen, sent on behalf of Defendants the City of New York and police officer Geong Kim.

The complaint alleges that Mr. Martin, a suburban middle-school science teacher from Connecticut, was subject to an unprovoked assault and unwarranted detention by officer Kim during a school outing to a New York Met baseball game at Citifield. Various yet-unknown officers are named as “John Doe” defendants. The original complaint asserted claims for Excessive Force, False Arrest, Inadequate Medical Care, Failure to Intervene, Supervisory Liability, Negligent Hiring, Training and Supervision, Assault, Battery, False Imprisonment, and Malicious Prosecution.

After an earlier pre-motion letter from Mr. McQueen, dated September 17, 2018, we amended the complaint to address the matters he had there identified, and also to drop plaintiff’s Malicious Prosecution Claim. He now raises two arguments, neither of which was raised in his prior letter.

First, he argues that the negligent hiring, training and supervision claim should be dismissed because the amended complaint does not allege sufficient facts to support an inference that the City knew of the officers’ propensity to act in the manner alleged. Mr. McQueen had raised this issue in my discussions with him last month prior to his September 17 letter but our discussion was inconclusive and, as noted, counsel did not include it in his letter, even though the prior pre-motion letter addressed this same claim.

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The City has yet to disclose the identity of the defendant John Doe officers and, because we are at the outset of discovery, has yet to provide any information regarding the known officer, Geong Kim. I called Mr. McQueen upon receipt of his most recent letter and we entered into discussions resulting in an agreement to bifurcate the negligent hiring, training and supervision claim, to be decided if and as appropriate after resolution of plaintiff's other claims, subject to plaintiff's reservation of the right to ask the Court to revisit bifurcation in the event we discover information that we believe supports such relief. Defendants, in turn, reserve their right to oppose such application.

Second, Mr. McQueen's letter argues, for the first time, that the New York City Police Department ("NYPD") is not a proper party. We do not object to dismissal of the NYPD, without need for a motion.

Respectfully submitted,



Thomas A. Kissane

cc:

Matthew McQueen
Assistant Corporation Counsel
Special Federal Litigation Division
New York City Law Department